

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION**

**JILL DILLARD, JESSA SEEWALD,
JINGER VUOLO, and JOY DUGGAR**

PLAINTIFFS

v.

CASE NO. 5:17-cv-05089-TLB

**CITY OF SPRINGDALE, ARKANSAS;
WASHINGTON COUNTY, ARKANSAS;
KATHY O'KELLEY, in her individual and
official capacities; ERNEST CATE, in his
individual and official capacities; RICK HOYT,
in his individual and official capacities; STEVE
ZEGA, in his official capacity; BAUER
PUBLISHING COMPANY, L.P.; BAUER
MEDIA GROUP, INC.; BAUER, INC.;
HEINRICH BAUER NORTH AMERICA, INC.;
BAUER MEDIA GROUP USA, LLC; and
DOES 1-10, inclusive**

DEFENDANTS

SEPARATE DEFENDANTS' NOTICE OF INTERLOCUTORY APPEAL

Comes now Separate Defendants, Kathy O'Kelley and Ernest Cate, each in their individual capacities, by and through undersigned counsel and for their Notice of Appeal, state:

Notice is given that Separate Defendants Kathy O'Kelley and Ernest Cate, in their individual capacities, hereby appeal to the United States Circuit Court of Appeals for the Eighth Circuit from the Order entered in this matter on the 29th day of September, 2017, denying in part Separate Defendants' Motion to Dismiss, which was premised upon, among other defenses, qualified immunity as to Plaintiffs' federal claims and state law claims, and state statutory immunity on Plaintiffs' state law claims. This appeal is taken pursuant to *Mitchell v Forsyth*, 472 U.S. 511 (1985) and *Ashcroft v. Iqbal*, 556 U.S. 662, 671 (2009), which allow for the taking of an interlocutory appeal after denial of a motion dismiss premised on, *inter alia*, qualified immunity. State statutory immunity is likewise immunity from suit and, pursuant to the Court's

supplement jurisdiction, Separate Defendants O'Kelley and Cate, individually, appeal the denial of statutory tort immunity for any remaining tort following the District Court's Order granting in part and denying in part Separate Defendants' Motion to Dismiss. *Trammell v. Wright*, 2016 Ark. 147.

Respectfully Submitted,

/s/ Thomas N. Kieklak
Thomas N. Kieklak (Ark. Bar No. 92262)
Email: tkieklak@arkansaslaw.com
R. Justin Eichmann (Ark. Bar No. 2003145)
E-mail: jeichmann@arkansaslaw.com
HARRINGTON, MILLER, KIEKLAK,
EICHMANN & BROWN, P.A.
4710 S. Thompson, Suite 102
Springdale, AR 72764
Phone: (479) 751-6464
Fax: (479) 751-3715

and

Susan Keller Kendall (Ark. Bar No. 98119)
KENDALL LAW FIRM, PLLC
3706 Pinnacle Hills Parkway, Suite 201
Rogers, Arkansas 72758
Email: skk@kendalllawfirm.com
Phone: (479) 464-9828
Fax: (479) 464-9768
**COUNSEL FOR SPRINGDALE
DEFENDANTS**

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that on the 10th day of October, 2017, a true and correct copy of the above and foregoing was filed with the Clerk via the CM/ECF system which will send notification of filing to the following:

Lauren S. Wulfe Robert C. O'Brien Steven E. Bledsoe LARSON O'BRIEN, LLP 555 S. Flower Street Suite 4400 Los Angeles, CA 90071 (213) 436-4888 lwulfe@larsonobrienlaw.com robrien@larsonobrienlaw.com sbledsoe@larsonobrienlaw.com	Shawn B. Daniels Sara C. Jewell HARE, WYNN, NEWELL & NEWTON, LLP 129 W. Sunbridge Drive Fayetteville, AR 72703 479-521-7000 Fax: 479-437-2007 shawm@hwnn.com sjewell@hwnn.com
Cynthia W. Kolb CROSS, GUNTER, WITHERSPOON & GALCHUS, P.C. 500 President Clinton Avenue Suite 200 Little Rock, AR 72201 (501) 371-9999 Fax: (501) 371-0035 ckolb@cwgwg.com	Elizabeth Anne McNamara Jamie Somoza Raghu Davis Wright Tremaine LLP 1251 Avenue of the Americas, 21st Floor New York, NY 10020 lizmcnamara@dwt.com jamieraghu@dwt.com
Jason E. Owens Rainwater, Holt & Sexton, P.A. P.O. Box 17250 Little Rock, AR 72222-7250 owens@rainfirm.com	

/s/ Thomas N. Kieklak
Thomas N. Kieklak (Ark. Bar No. 92262)